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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE  
OF THE STATE OF IDAHO**

STATE OF IDAHO, DEPARTMENT  
OF FINANCE, CONSUMER  
FINANCE BUREAU,

Complainant,

vs.

MANN MORTGAGE, LLC, dba  
HERITAGE HOME LOANS;  
CHIMNEY ROCK MORTGAGE;  
ALLIED MORTGAGE RESOURCE;  
AFFINITY MORTGAGE; and  
MORTGAGE DESIGN,

Respondent.

Docket No. 2017-8-02

**CONSENT ORDER**

The State of Idaho, Department of Finance, Consumer Finance Bureau (Department) has conducted examinations of the mortgage brokering/lending and related business activities of MANN MORTGAGE, LLC, d/b/a HERITAGE HOME LOANS; CHIMNEY ROCK MORTGAGE; ALLIED MORTGAGE RESOURCE; AFFINITY MORTGAGE; and MORTGAGE DESIGN (the Respondent), and has concluded therefrom that the Respondent has engaged in violations of the Idaho Residential Mortgage Practices Act, Idaho Code § 26-31-101 *et seq.* (the Act).

The Director of the Idaho Department of Finance (Director) and the Respondent have agreed to resolve this matter through the entry of this Consent Order, in lieu of a formal administrative proceeding or a civil enforcement lawsuit. The Director deems it appropriate and in the public interest to enter into this Consent Order, and the Respondent voluntarily consents to its entry.

### **RESPONDENT**

1. The Respondent is a Montana limited liability company, registered with the Idaho Secretary of State since December 13, 1996, as Mann Financial Inc. The first filing with the Idaho Secretary of State under its current name was July 13, 2004. The Respondent has held an Idaho Mortgage Broker/Lender license with the Department since September 23, 1996. Its current license number is MBL-437. The Respondent's Nationwide Mortgage License System (NMLS) unique identifying number is NMLS-2550.

2. The Respondent's home office is located at 1220 Whitefish Stage, Kalispell, Montana, 59901. As of December 6, 2016, the Respondent conducted business from its Kalispell location as well as Idaho locations in Nampa and Meridian. All of the Respondent's executive management and accounting personnel are located at the corporate office in Kalispell. Its financial records and day-to-day bookkeeping are recorded utilizing AMB (Accounting for Mortgage Banking) accounting software.

### **SUMMARY**

3. Since 2012, Department Examiners (the Examiners) have conducted three regulatory examinations of the Respondent. The first examination occurred in September 2012, the second in May 2015, and the third in December 2016. The examinations uncovered regulatory deficiencies in violation of the Act and federal laws. The deficiencies were similar

from year to year and ranged in areas from the Respondent's loan documentation, business management, advertising, and mortgage loan originator licensing.

4. Before the 2016 examination, the Respondent started the process of improving its internal compliance procedures to ensure its requirements to satisfy state and federal laws. Despite these efforts, during the 2016 examination the Department found a continued lack of adequate internal controls to ensure compliance with state and federal laws. After the Respondent reviewed the 2016 Examination Report, it accelerated its efforts in taking remedial steps to prevent future violations:

#### **FINDINGS OF THE 2016 EXAMINATION**

5. The Examiners found that a branch manager of the Nampa branch engaged in numerous acts of trying to influence an appraiser's appraisal valuations<sup>1</sup>. The Examiners found that in twenty separate loan transactions, the branch manager sent emails to the assigned appraiser, informing him of the value the property needed to be to support an approval of the borrower's loan. After verifying the emails, the Respondent took proactive steps and terminated the branch manager's employment.

6. The Examiners undertook a detailed examination of the Respondent's records and found approximately 258 email communications between the branch manager and the appraiser representing violations of Regulation Z.

7. The Examiners conducted interviews of a number of employees at both Idaho branch locations. Based on statements from employees at the Nampa location and upon a review of emails, the Examiners found that several Nampa employees engaged in the practice of making

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<sup>1</sup> Federal Regulation Z § 1026.42(c)(1)(i)(a) provides that "[i]n connection with a covered transaction, no covered person shall attempt to directly or indirectly cause the value assigned to the consumer's principal dwelling to be based on any factor other than the independent judgment of a person that prepares valuations..." Since the branch manager was an employee of the Respondent, the branch manager's action constituted a violation of Regulation Z by the Respondent.

referrals to a settlement service provider in exchange for compensation. These employees referred loan applicants to a specific home insurance provider who then provided the referring employee with a gift card.<sup>2</sup> Initially, the Examiners found fourteen specific instances of this practice, but the Respondent subsequently provided records that indicated a potential of one hundred eighty one (181) violations. The officers of the Respondent were unaware of such conduct by these employees.

8. The Department found that the Respondent's compliance management systems did not preclude the occurrence of continued violations of the Act, as well as federal Regulation Z, 12 CFR § 1026.36, which implements the Truth In Lending Act, 15 U.S.C. § 1601 *et seq.*; federal Regulation B, 12 CFR § 1002.1 *et seq.*, which implements the Equal Credit Opportunity Act, 15 U.S.C §1691 *et seq.*; and Regulation X, which implements the Real Estate Settlement Procedures Act of 1974, 12 U.S.C § 2601 *et seq.*

9. The continued violations identified by the Examiners demonstrate that the Respondent did not always implement sufficient policies and procedures to ensure compliance. In several instances, the Respondent did not identify and correct violations until regulatory agencies found the violations.

### **LEGAL CONCLUSIONS**

10. Idaho Code § 26-31-207(1) provides the following, in pertinent part:

If the department has reason to believe that grounds exist for revocation or suspension of a license issued pursuant to this part, the department may initiate a contested case against a mortgage broker or mortgage lender, and any partner, officer, director, manager, member, control person, employee or agent whose activities constitute the basis for revocation or suspension, in accordance with chapter 52, title 67, Idaho Code. The

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<sup>2</sup> Federal Regulation X § 1024.14(b) states that "[n]o person shall give and no person shall accept any fee, kickback or other thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or part of a settlement service involving a federally related mortgage loan shall be referred to any person. Any referral of a settlement service is not a compensable service... A company may not pay any other company or the employees of any other company for the referral of settlement service business."

director may, after proceedings pursuant to chapter 52, title 67, Idaho Code, suspend the license for a period not to exceed six (6) months, or revoke the license, if he finds that:

...

(h)The mortgage broker or mortgage lender licensee has failed to supervise diligently and control the mortgage-related activities of a mortgage loan originator ...that is employed by the licensee;

11. After the Respondent was originally informed that its Nampa branch manager was unlawfully communicating with an appraiser about the appraisal process, the Respondent discussed the matter with the branch manager but did not implement procedures to prevent the same violation from occurring again. Consequently, the branch manager continued with improper communications. This failure to continue monitoring the branch manager's activities, demonstrates the Respondent's lack of adequate internal controls with respect to this one branch and is in violation of Idaho Code § 26-31-207(1)(h). After the Respondent became aware of the violations after the 2016 examination, it terminated the branch manager, shut down the branch, and terminated all of the branch employees. This violation only occurred at the Nampa branch.

12. The Respondent's failure to discover its employees were receiving gift cards for referring customers to insurance agents represents a lack of supervision and control by the Respondent over its employees at the Nampa branch and is in violation of Idaho Code § 26-31-207(1)(h). This violation only occurred at the Nampa branch.

13. The Examiners found evidence that employees of the Respondent, prior to obtaining a license, performed licensable mortgage activities, which is defined by Idaho Code § 26-31-201(5) as:

...compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the preparation of an application for a residential mortgage loan on behalf of a borrower, negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with any person

making residential mortgage loans or engaging in loan modification activities on behalf of a borrower.

The Respondent has not demonstrated that it has conducted monitoring of loan origination activity to identify or correct such practices as required by Idaho Code § 26-31-207(1)(h).

14. The Respondent was cited for failing to provide applicants with a Notice of Action Taken (NOAT) or retain a copy of the NOAT as required by the Act and federal law. These NOATs must be issued by the lender within thirty (30) days of a complete or incomplete application concerning the creditor's approval of, counteroffer to, or adverse action on the application, or ninety (90) days after notifying the applicant of the counter offer if the applicant does not expressly accept or use the credit offered. The Respondent has not demonstrated that it conducted monitoring of its notification practices to identify or correct such issues as required by Idaho Code § 26-31-207(1)(h).

#### **RESPONDENT'S IMPROVEMENTS**

15. The Examination Reports noted a number of violations of federal and state law. The violations all arise from a common problem, which is the Respondent's failure to adequately supervise, provide training and guidance, and monitor the activities of its employees and staff in its Nampa branch. The Respondent has implemented a number of procedures, all of which were accelerated after the 2016 Examination, to ensure compliance with state and federal law. These procedures include:

- a. Adopting an appraisal independence policy and updating its appraisal ordering software;
- b. Hiring a Director of Risk Management and increasing the compliance department from seven employees to sixteen;

- c. Building a vendor management program and adding an Advertisement Review Specialist;
- d. Revising and improving its corporate training program;
- e. Hiring an internal auditor who has the responsibility of developing and implementing an internal audit program that will include on-site branch audits, testing and setting controls;
- f. Adding more individuals to its Disclosure Desk to manage compliance issues at the loan level; and
- g. Instituting training for its branch managers and loan officers. The training will be conducted during onsite branch audits.

#### **REMEDIES**

- 16. The Respondent admits to the allegations set forth in this Consent Order.
- 17. To address such violations, the Respondent agrees to pay to the Department an administrative penalty in the amount of one hundred fifty thousand dollars (\$150,000), with seventy five thousand (\$75,000) suspended pending an examination to be conducted by the Department in 2018. If the procedures that the Respondent has indicated it has implemented are in place and the examination finds no major repeat violations, the suspended portion of the penalty shall be waived. However, if the procedures are not in place or the examination finds a major repeat violation, the Respondent shall be liable for the suspended amount in addition to possible other penalties should other violations of law be found as a part of the 2018 examination.
- 18. In addition, the Respondent agrees to pay an additional one thousand dollars (\$1,000) as attorney fees and investigative costs incurred by the Department in pursuing this

matter, for a total payment to the Department upon execution of this Consent Order of seventy six thousand dollars (\$76,000).

19. Except as noted in paragraph 17, the Department agrees that if the Respondent timely and fully complies with payment of the sums set forth in paragraphs 17 and 18 above and the other terms set forth herein, the Department will forgo seeking further penalties or other sanctions for the violations referenced above, as well as all other violations of the Act, rules promulgated under the Act, and federal law and regulations found by Department examiners during the examinations.

20. The Respondent acknowledges that it is aware of and understands all findings made by Department examiners that were set forth in the examination reports. The Respondent further acknowledges that should all such violations not be rectified immediately and procedures put in place to correct the activities giving rise to such violations, and should the Department find after the entry of this Consent Order that such violations have continued to occur, the Department may seek additional sanctions against the Respondent.

21. The Respondent agrees to comply with all provisions of the Act, all rules promulgated thereunder, this Consent Order, and all federal laws and regulations applicable to its mortgage brokering/lending business at all times in the future.

22. The Respondent acknowledges and understands that this Consent Order is an administrative action that must be disclosed to the Department on future licensing and renewal forms. The disclosure requirements of other states may also require disclosure of the same. The Department agrees that the entry of this Consent Order will not operate as a sole basis to deny any future request by the Respondent for license renewal.

DATED this 24 day of August, 2017.

MANN MORTGAGE, LLC

By: \_\_\_\_\_

CEO

Title

DATED this 24 day of August, 2017.

STATE OF IDAHO  
DEPARTMENT OF FINANCE

Michael Larsen 9/6/17

MICHAEL LARSEN  
Consumer Finance Bureau Chief

**IT IS SO ORDERED.**

DATED this 10th day of September, 2017.

STATE OF IDAHO  
DEPARTMENT OF FINANCE

Mary E. Hughes

MARY E HUGHES, Acting Director  
Idaho Department of Finance



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 12<sup>th</sup> day of September, 2017, I caused a true and correct fully-executed copy of the foregoing CONSENT ORDER to be served on the following by the designated means:

Julie Seliger, Compliance Manager  
Mann Mortgage, LLC  
1220 Whitefish Stage Road  
Kalispell, MT 59901

- U.S. mail, postage prepaid
- Certified mail
- Facsimile:
- Email: [julie.seliger@mannmortgage.com](mailto:julie.seliger@mannmortgage.com)

Paralegal

A handwritten signature in black ink, appearing to be 'Julie Seliger', is written over a horizontal line. The signature is fluid and cursive.